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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA**

KRYSTAL ANNE MEDINA,
Debtor.

Case No.: 17-05276-LT7

Adv. No.: 19-90065-LT

KRYSTAL ANNE MEDINA
Plaintiff

**OPPOSITION TO MOTION TO FILE
DOCUMENT UNDER SEAL**

v.

National Collegiate Student Loan
Trust 2006-3

Dept.: 3

Defendant

Plaintiff KRYSTAL ANNE MEDINA opposes Defendant National Collegiate Student Loan Trust 2006-3 ("NCSLT")'s Motion to File Document Under Seal.

Bankruptcy Code section 107(a) provides that, with limited exceptions, "a paper filed in a case under this title and the dockets of a bankruptcy court are public records and open to examination by an entity at reasonable times without charge." "Section 107(a) is rooted in the right of public access to judicial proceedings, a principle long-recognized in the common law and buttressed by the First Amendment." *In re Crawford*, 194 F.3d 954, 960 (9th Cir. 1999) (citing, *inter alia*, *Nixon v. Warner Comm., Inc.*, 435 U.S. 589, 597-98 (1978)). Section 107 thus requires that bankruptcy filings be public unless they are scandalous, defamatory, or contain trade secrets or other

1 confidential information that is “so critical to the operations of the entity seeking the
2 protective order that its disclosure will unfairly benefit the entity’s competitors.” *In re*
3 *Gibbs*, 2017 WL 6506324 at * 1 (Bankr. D. Haw. 2017) (quotations omitted); *see also*
4 *In re Kahn*, 2013 WL 6645436 at *3 (B.A.P. 9th Cir. 2013) (“We construe these
5 exceptions narrowly.”). Moreover, any exceptions to the public’s right to access judicial
6 records must be consistent with the public’s First Amendment right to access court
7 records, which cannot be denied absent compelling reasons. See *Courthouse News*
8 *Service v. Planet*, 750 F.3d 776, 785-88 (9th Cir. 2014).

9 Contrary to plaintiff’s assertion, devoid of any evidentiary support, that the
10 documents “are deemed proprietary and confidential,” there is no justification under
11 section 107 or otherwise for sealing the documents. The documents are over 17 years
12 old (“EXECUTION 4/18/02” per Docket 22-6) and pertain to an entity that entered
13 bankruptcy in 2008 and has long since been liquidated. See *In re The Education*
14 *Resources Institute, Inc.* Case No. 08-12540 (Bankr. D, Mass). Defendants thus have no
15 legitimate business reason for sealing them. Rather, Plaintiff believes Defendants want
16 the documents sealed to enhance their position in discharge litigation with other debtors
17 throughout the country—litigation in which debtors and courts are increasingly
18 questioning Defendants’ arguments. See, e.g., *In re Page*, 592 B.R. 334, 339 (B.A.P. 8th
19 Cir. 2018) (reversing bankruptcy court’s summary judgment that TERI’s guarantee of
20 loan constituted “funding” of that loan for nondischargeability purposes); *In re Golden*,
21 596 B.R. 239, 266-67 (Bankr. E.D.N.Y. 2019) (holding that mere recitations in loan
22 documents as to TERI’s role were not sufficient to establishing the nondischargeability
23 of student loans).

24 Defendants’ desire to oppose the discharge of student loans is not a valid reason
25 for sealing bankruptcy court records. The public has a right to see these records, as do
26 debtors and other interested parties, so that they may understand Defendants’ position
27 and evaluate the effect the agreements may have on debtors’ rights in bankruptcy.

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1 Furthermore, Plaintiff has reason to believe that the documents at issue have
2 *already* been ordered unsealed in a different case. See *Mata v. National Collegiate*
3 *Student Loan Trust 2006-1*, et al. Bankr. CD Cal. 18-ap-01089. Accordingly, sealing
4 them in the instant case is futile.

5 For the foregoing reasons, Defendant's Motion to File Documents under Seal
6 should be denied.

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8 Date: 1/9/2020

/s/ Christopher R. Bush
Christopher R. Bush, Attorney for Plaintiff